



## Senate

General Assembly

**File No. 68**

February Session, 2000

Substitute Senate Bill No. 90

*Senate, March 16, 2000*

The Committee on Judiciary reported through SEN. WILLIAMS of the 29<sup>th</sup> Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***An Act Concerning The Confidentiality Of Probate Court Proceedings Involving Individuals With Mental Retardation.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 17a-274 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (b) Application to the Probate Court for placement under this  
4 section may be made by any interested party. The application and all  
5 records of probate court proceedings held as a result of the filing of  
6 such application, except for the name of any guardian of the  
7 respondent, shall be sealed and shall be made available only to the  
8 respondent or the respondent's counsel or guardian, and to the  
9 Commissioner of Mental Retardation or the commissioner's designee,  
10 unless the Probate Court, after hearing held with notice to the  
11 respondent, and to the commissioner or the commissioner's designee,  
12 determines that such application and records should be disclosed for  
13 cause shown. The application shall allege that the respondent is

14 mentally retarded and (1) is unable to provide for himself at least one  
15 of the following: Education, habilitation, care for personal health and  
16 mental health needs, meals, clothing, safe shelter or protection from  
17 harm; (2) has no family or guardian to care for [him] the respondent or  
18 [his] the respondent's family or guardian can no longer provide  
19 adequate care for [him] the respondent; (3) is unable to obtain  
20 adequate, appropriate services which would enable [him] the  
21 respondent to receive care, treatment and education or habilitation  
22 without placement by a court of probate; and (4) is not willing to be  
23 placed under the custody and control of the Department of Mental  
24 Retardation or its agents or voluntary admission has been sought by  
25 the guardian or limited guardian of [such person] the respondent  
26 appointed pursuant to chapter 779a or the provisions of sections 45a-  
27 711 to 45a-725, inclusive, and such voluntary admission has been  
28 opposed by the ward or [his] the ward's next of kin.

29 Sec. 2. Section 45a-670 of the general statutes is repealed and the  
30 following is substituted in lieu thereof:

31 An application for guardianship may be filed by the court on its  
32 own motion or by any adult person. The application and all records of  
33 probate court proceedings held as a result of the filing of such  
34 application, except for the name of any guardian of the respondent,  
35 shall be sealed and shall be made available only to the respondent or  
36 the respondent's counsel or guardian, and to the Commissioner of  
37 Mental Retardation or the commissioner's designee, unless the Probate  
38 Court, after hearing held with notice to the respondent, and to the  
39 commissioner or the commissioner's designee, determines that such  
40 application and records should be disclosed for cause shown. An  
41 application filed by the court on its own motion shall contain a  
42 statement of the facts on which the court bases its motion, and such  
43 statement of facts shall be included in any notice to the respondent.  
44 Any other application filed shall allege that a respondent, by reason of  
45 the severity of [his] the respondent's mental retardation is unable to

46 meet essential requirements for [his] the respondent's physical health  
47 and safety and unable to make informed decisions about matters  
48 relating to [his] the respondent's care. Such application shall be filed in  
49 the court of probate in the district in which the respondent resides or  
50 [has his domicile] is domiciled. Such application shall state: (1)  
51 Whether there is, in any jurisdiction, a guardian, limited guardian, or  
52 conservator for the respondent; (2) the extent of the respondent's  
53 inability to meet essential requirements for [his] the respondent's  
54 physical health or safety, and the extent of the respondent's inability to  
55 make informed decisions about matters related to [his] the  
56 respondent's care; (3) any other facts upon which guardianship is  
57 sought; and (4) in the case of a limited guardianship, the specific areas  
58 of protection and assistance required for the respondent.

59 Sec. 3. Section 45a-692 of the general statutes is repealed and the  
60 following is substituted in lieu thereof:

61 An application for a determination of a person's ability to give  
62 informed consent to a sterilization procedure may be filed by the  
63 person seeking sterilization, the attending physician of the person  
64 seeking sterilization, by the director of the institution, or by an  
65 interested party and shall state the reason for seeking such  
66 determination. Such application shall be filed in the court of probate in  
67 the district in which the respondent resides or [has his domicile] is  
68 domiciled. The application and all records of probate court  
69 proceedings held as a result of the filing of such application, except for  
70 the name of any guardian of the respondent, shall be sealed and shall  
71 be made available only to the respondent or the respondent's counsel  
72 or guardian, and to the Commissioner of Mental Retardation or the  
73 commissioner's designee, unless the Probate Court, after hearing held  
74 with notice to the respondent, and to the commissioner or the  
75 commissioner's designee, determines that such application and records  
76 should be disclosed for cause shown.

**PH**    **Committee Vote:**   Yea   21   Nay   0   JFS   C/R   JUD

**JUD**   **Committee Vote:**   Yea   39   Nay   0   JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Affected Agencies:** Probate Court (Judicial Department)

**Municipal Impact:** None

**OLR Bill Analysis**

sSB 90

***AN ACT CONCERNING THE CONFIDENTIALITY OF PROBATE COURT PROCEEDINGS INVOLVING INDIVIDUALS WITH MENTAL RETARDATION.*****SUMMARY:**

This bill makes probate court proceedings involving the involuntary placement, guardianship, or sterilization of individuals with mental retardation confidential.

Under the bill, the application and all records of such probate court proceedings, except for the name of the individual's guardian, must be sealed and only made available to the individual, his counsel or guardian, and the Department of Mental Retardation (DMR) commissioner or his designee. Such records can be disclosed if the court, after a hearing with notice to the individual and to the commissioner, determines that the records should be disclosed for cause shown.

EFFECTIVE DATE: October 1, 2000

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute Change of Reference

Yea 21      Nay 0

Judiciary Committee

Joint Favorable Report

Yea 39      Nay 0